



# RAND WEST CITY LOCAL MUNICIPALITY

## IRREGULAR UNAUTHORIZED FRUITLESS AND WASTEFUL EXPENDITURE POLICY 2019-2020

Notwithstanding the review date herein, this policy shall remain effective until such time approved otherwise by council and may be reviewed on an earlier date if necessary.

<b>Council Resolution No.</b>			
<b>Approved</b>		<b>Effective</b>	<b>1/07/2019</b>

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## **1. DECLARATION OF INTENT**

At its broadest level, the Municipal Finance Management Act (MFMA 53 of 2003) endeavours “to secure sound and sustainable management of the fiscal and financial affairs of municipalities and municipal entities by establishing norms and standards and other requirements.”

In particular, Chapter 8 of the MFMA places the onus on each employee within the Municipality to take responsibility for the effective, efficient, economical and transparent use of financial and other resources within that employee’s area of responsibility. More specifically, the employee must take effective and appropriate steps to prevent, within that employee’s area of responsibility, any unauthorised, irregular, fruitless and wasteful expenditure and any under-collection of revenue due.

## **2. OBJECTIVE**

The objective of this policy document is to clearly define the responsibilities of the Randwest Local Municipality in terms of the Municipal Finance Management Act with respect to Unauthorised, Irregular, Fruitless and Wasteful expenditure. This policy document addresses the following areas:

- The definition of Unauthorised, Irregular, Fruitless and Wasteful expenditure in terms of the Municipal Finance Management Act.
  - The roles and responsibilities of the Accounting Officer, management and other officials of the municipality with respect to the prevention, identification, reporting, recovery, write off or approval and disclosure in the annual financial statements of Unauthorised, Irregular, Fruitless and Wasteful expenditure.

## **3. TERMINOLOGY AND DEFINITIONS**

In this Policy, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the MFMA has the same meaning, and -

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“Allocation”, in relation to a municipality, means—

- (a) A municipality’s share of the local government’s equitable share referred to in section 214 (1) (a) of the Constitution;
- (b) An allocation of money to a municipality in terms of section 214 (1) (c) of the Constitution;
- (c) An allocation of money to a municipality in terms of a provincial budget; or
- (d) Any other allocation of money to a municipality by an organ of state, including by another municipality, otherwise than in compliance with a commercial or other business transaction;

“**Fruitless and Wasteful Expenditure**” means expenditure that was made in vain and would have been avoided had reasonable care been exercised;

“**Irregular Expenditure**”, in relation to a municipality or municipal entity, means—

- (a) Expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of this Act, and which has not been condoned in terms of section 170;
- (b) Expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the Municipal Systems Act, and which has not been condoned in terms of that Act;
- (c) Expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the Public Office-Bearers Act, 1998 (Act No. 20 of 1998); or
- (d) Expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or entity or any of the municipality’s by-laws giving effect to such policy, and which has not been condoned in terms of such policy or by-law, but excludes expenditure by a municipality which falls within the definition of “unauthorised expenditure”

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**“Unauthorised Expenditure”**, in relation to a municipality, means any expenditure incurred by a municipality otherwise than in accordance with section 15 or 11 (3) of the MFMA, and includes:

- (a) Overspending of the total amount appropriated in the municipality’s approved budget;
- (b) Overspending of the total amount appropriated for a vote in the approved budget;
- (c) Expenditure from a vote unrelated to the department or functional area covered by the vote;
- (d) Expenditure of money appropriated for a specific purpose, otherwise than for that specific purpose;
- (e) spending of an allocation referred to in paragraph (b), (c) or (d) of the definition of “allocation” otherwise than in accordance with any conditions of the allocation; or
- (f) A grant by the municipality otherwise than in accordance with this Act;

**“Vote”** means:

- (a) One of the main segments into which a budget of a municipality is divided for the appropriation of money for the different departments or functional areas of the municipality; and
- (b) Which specifies the total amount that is appropriated for the purposes of the department or functional area concerned.

## 4. SCOPE OF APPLICATION

From a responsibility perspective, this policy is relevant to all employees of the Municipality, whether full-time or part-time. It is, however, specifically applicable to the Council, Accounting Officer, Chief Financial Officer, Senior Manager’s, Officials and all employees. In particular, the duly appointed Directors and responsibility managers have significant roles in:

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- *Identifying the identity of the person who is liable for unauthorised, irregular or fruitless and wasteful expenditure.*
- *Deciding on how to recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure.*
- *Determining the amount of unauthorised, irregular or fruitless and wasteful expenditure to be recovered, written off or provided for.*

## 5. GOVERNING PRESCRIPTS

This Policy has been formulated in terms of the Municipal Finance Management Act, 2003 (Act 56 of 2003).

### Legal framework

This policy will be implemented within the legal framework of the relevant national legislation outlined hereunder.

- *Treasury regulations GNR.225 of 15 March 2005: Amendment of Treasury Regulations in terms of Section 76*
- *The Municipal Finance Management Act, 2003 (Act 56 of 2003) Sections 32, 62, 78, 95, 102, 105, 125, 171, 172 and 173.*

## 6. GUIDING PRINCIPLES

This policy supports the following principles:

- To secure the sound and sustainable management of the financial affairs of municipalities and other institutions in the local sphere of government;
- To establish treasury norms and standards for the local sphere of government;
- Ensuring transparency, accountability and appropriate lines of responsibility in the fiscal and financial affairs of municipalities and municipal entities;

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- The management of the municipality's revenues, expenditures, assets and liabilities and the handling of their financial dealings.

Section 32(2) and Section 32(3)-(7) of the MFMA identifies the following responsibilities with respect to a municipality and Accounting Officer:

- A municipality must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure:

In the case of unauthorised expenditure, is:

- authorised in an adjustments budget; or
  - certified by the municipal council, after investigation by a council committee, as irrecoverable and written off by the council; and
  - in the case of irregular or fruitless and wasteful expenditure, is, after investigation by a council committee, certified by the council as irrecoverable and written off by the council.
- If the accounting officer becomes aware that the council, the executive mayor or the executive committee of the municipality, as the case may be, has taken a decision which, if implemented, is likely to result in unauthorised, irregular or fruitless and wasteful expenditure, the accounting officer is not liable for any ensuing unauthorised, irregular or fruitless and wasteful expenditure provided that the accounting officer has informed the council, the executive mayor or the executive committee, in writing, that the expenditure is likely to be unauthorised, irregular or fruitless and wasteful expenditure.
  - The accounting officer must promptly inform the executive mayor, the MEC for local government in the province and the Auditor-General, in writing, of:
    - any unauthorised, irregular or fruitless and wasteful expenditure incurred by the municipality;
    - whether any person is responsible or under investigation for such unauthorised, irregular or fruitless and wasteful expenditure; and

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- the steps that have been taken:
- to recover or rectify such expenditure; and
- to prevent a recurrence of such expenditure.
- The writing off in terms of section 32(2) [MFMA] of any unauthorised, irregular or fruitless and wasteful expenditure as irrecoverable is no excuse in criminal or disciplinary proceedings against a person charged with the commission of an offence or a breach of this Act relating to such unauthorised, irregular or fruitless and wasteful expenditure.
- The accounting officer must report to the South African Police Service all cases of alleged:
  - irregular expenditure that constitute a criminal offence; and
  - Theft and fraud that occurred in the municipality.
- The council of a municipality must take all reasonable steps to ensure that all cases referred to in section 32(2) are reported to the South African Police Service if:
  - the charge is against the accounting officer; or
  - The accounting officer fails to comply with that subsection.

In terms of Section 62(1)(a)-(e) of the MFMA, the Accounting Officer is responsible for managing the financial administration of the municipality, and must for this purpose take all reasonable steps to ensure:

- a. That the resources of the municipality are used effectively, efficiently and economically;
- b. That full and proper records of the financial affairs of the municipality are kept in accordance with any prescribed norms and standards;



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c. That the municipality has and maintains effective, efficient and transparent systems:

- of financial and risk management and internal control; and
- of internal audit operating in accordance with any prescribed norms and standards;

d. That unauthorised, irregular or fruitless and wasteful expenditure and other losses are prevented;

e. That disciplinary or, when appropriate, criminal proceedings are instituted against any official of the municipality who has allegedly committed an act of financial misconduct or an offence in terms of Chapter 15 of the MFMA.

In terms of Section 78(a)-(c) of the MFMA, the senior management of a municipality and each official of a municipality exercising financial management responsibilities must take all reasonable steps within their respective areas of responsibility to ensure:

a. That the system of financial management and internal control established for the municipality is carried out diligently;

b. That the financial and other resources of the municipality are utilised effectively, efficiently, economically and transparently;

c. That any unauthorised, irregular or fruitless and wasteful expenditure and any other losses are prevented.

In terms of the reporting responsibilities of the Accounting Officer, Section 125(2)(d) and (e) of the MFMA, the notes to the annual financial statements of a municipality or municipal entity must disclose the following information:

Particulars of:

- Any material losses and any material irregular or fruitless and wasteful expenditures, including in the case of a municipality, any material unauthorised expenditure, that occurred during the financial year, and whether these are recoverable;

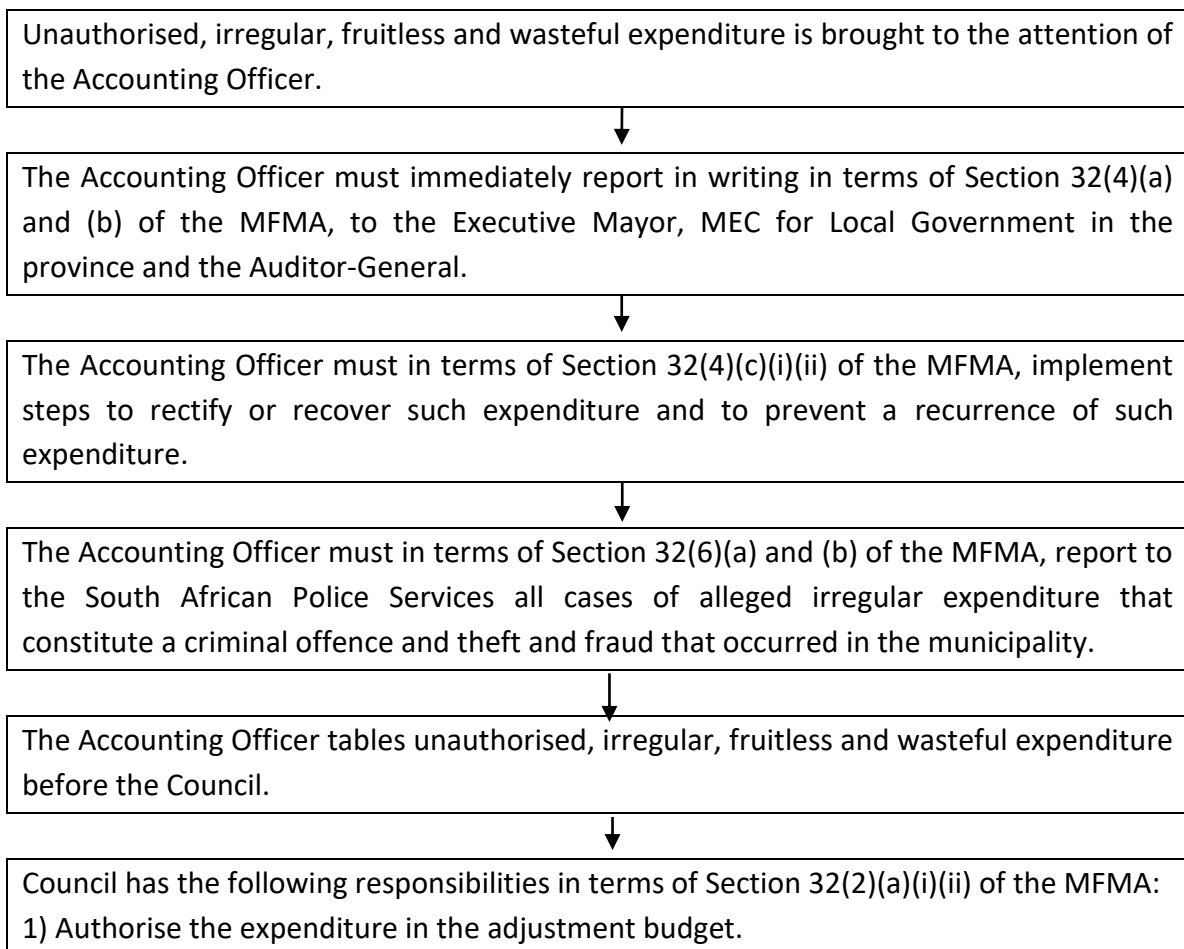
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- Any criminal or disciplinary steps taken as a result of such losses or such unauthorised, irregular or fruitless and wasteful expenditures; and
- Any material losses recovered or written off;
- Particulars of non-compliance with this Act; and
- Any other matters that may be prescribed.

## 7. PROCEDURES

### 7.1 REPORTING REQUIREMENTS

The following diagram provides guidance as to the reporting requirements regarding unauthorised, irregular, fruitless and wasteful expenditure:



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- 2) Certify after investigation by a Council Committee that the expenditure is irrecoverable and approve the write off by the Council.
- 3) Recommend the recovery of the expenditure from the responsible person.



If unauthorised, irregular, fruitless and wasteful expenditure is not condoned the Accounting Officer must:

1. Take appropriate disciplinary steps as required in Section 62 (e) of the MFMA.
2. Recover the amount



Unauthorised, irregular, fruitless and wasteful expenditure must be reported in the annual report (as a note to the annual financial statements) in terms of Section 125(2)(d)(i)-(iii) of the MFMA.

### 7.2 ACCOUNTING TREATMENT AND DISCLOSURE

#### **Accounting policies:**

#### **Revenue Recognition:**

If the amounts recovered as a result of unauthorised, irregular, fruitless and wasteful expenditure are material a revenue recognition accounting policy will be required in the annual financial statements.

The accounting policy for revenue recognition should include the following:

#### ***Revenue from non-exchange transactions:***

Revenue from the recovery of unauthorised, irregular, fruitless and wasteful expenditure is based on legislated procedures including those set out in the Municipal Finance Management Act (Act no.56 of 2003) and is recognised when the recovery thereof from the responsible councillors or officials is virtually certain."

#### ***Mandatory accounting policy notes required in the Annual Financial Statements:***

The inclusion of the following accounting policy notes is mandatory. The accounting policy notes should read as follows:

### **UNAUTHORISED EXPENDITURE**

Unauthorised expenditure is expenditure that has not been budgeted, expenditure that is not in terms of the conditions of an allocation received from another sphere of government, municipality or organ of state and expenditure in the form of a grant that is not permitted in terms of the Municipal Finance Management Act (Act No.56 of 2003). Unauthorised expenditure is accounted for as an expense in the Statement of Financial Performance and where recovered, it is subsequently accounted for as revenue in the Statement of Financial Performance.

### **IRREGULAR EXPENDITURE**

Irregular expenditure is expenditure that is contrary to the Municipal Finance Management Act (Act No.56 of 2003), the Municipal Systems Act (Act No.32 of 2000), and The Public Office Bearers Act (Act No. 20 of 1998) or is in contravention of the Municipality's supply chain management policy. Irregular expenditure excludes unauthorised expenditure. Irregular expenditure is accounted for as expenditure in the Statement of Financial Performance and where recovered, it is subsequently accounted for as revenue in the Statement of Financial Performance.

### **FRUITLESS AND WASTEFUL EXPENDITURE**

Fruitless and wasteful expenditure is expenditure that was made in vain and would have been avoided had reasonable care been exercised. Fruitless and wasteful expenditure is accounted for as expenditure in the Statement of Financial Performance and where recovered, it is subsequently accounted for as revenue in the Statement of Financial Performance.

**UNAUTHORISED, FRUITLESS AND WASTEFUL EXPENDITURE DISALLOWED** (Referenced to the applicable number in the notes to the Annual Financial Statements):

The reconciliations of unauthorised expenditure as well as fruitless and wasteful expenditure disallowed, together with the explanatory information set out in the note to the annual financial statements are in terms of Section 125(2)(d) of the Municipal Finance Management Act.

## **8. MANAGEMENT REPORTING**

8.1 Management information concerning the status of the disciplinary steps and or criminal proceedings instituted with respect to all unauthorised, irregular, fruitless and wasteful expenditure incurred by the Municipality shall be provided to the Chief Financial Officer on a monthly basis. The information should preferably include the date of the incident, a description of the incident and the subsequent steps taken.

8.2 Any approval granted to write off debt owed to the Municipality, shall be provided to the Chief Financial Officer on a monthly basis. This will be in the form of a Council decision.

## **9. POLICY IMPLIMENTATION**

This policy has been approved by the Council of Rand West Local Municipality and will come in to effective from 1 July 2019.